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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,358	09/22/2003	Robert K. Emrich	051291.00189	4906

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EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT PAPER NUMBER

3671

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/665,358	Applicant(s) EMRICH, ROBERT K.	
	Examiner Christopher J. Novosad	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10,22-29 and 36-42 is/are allowed.
- 6) ☒ Claim(s) 1-3,5,11-14,16-18,30,31 and 35 is/are rejected.
- 7) ☒ Claim(s) 4,6-9,15,19-21 and 32-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>041304 and 122204</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Withdrawal of Requirement for Election of Species

The requirement for election of species made in the previous Office action is withdrawn in view of the allowance of generic claims as noted below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as the invention. There is no proper antecedent basis for the recitation of “the rigid part” in lines 1 and 2 of the claim.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section of this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 11-14, 16-18, 30, 31 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruvang *et al.* (USP 6,108,950), hereinafter referred to as Ruvang *et al.*, as follows:

With respect to claim 1, Ruvang *et al.* disclose a wear assembly (10) for an excavator (not shown, col. 1, lines 15, 16) comprising:

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a base component (28) to be fixed to the excavator and including a nose (12);

a wear component (10) having a wearable surface and a cavity (pocket 18) to receive the nose (12), the wear and base components (10, 28) including aligned holes (30, 32) to form an opening (30, 32); and

a lock (connector member 34) removably received in the opening (30,32) for releasably holding the wear component (10) to the base component (28), the lock (34) including:

a body (unnumbered) and a locking member (70, 80, Figs. 6-10) mounted to the body (unnumbered) for movement between a release position (Fig. 7, solid line orientation of locking flange 80) and a locking position (Fig. 7, dotted-line orientation of flange 80), the body (unnumbered) and the locking member (70, 80) cooperatively defining an outline shape with the locking member in the release position for receipt in the opening (30, 32, see col. 8, lines 4-10); and

the locking member (70, 80) being secured to the body for movement limited to rotation (see col. 8, lines 10-20) about an axis (unnumbered), the locking member (70, 80) including a tab (flange portion 80b) that is within the outline shape when the locking member (70, 80) is in the release position and is at least partially outside of the outline shape when the locking member is in the locking position (see Figs. 1, 3 and 7) such that at least part of the tab (80b) sets opposite an inner surface (92) of the wear component (10) to prevent removal of the lock (34) from the opening (30, 32).

With regard to claim 2, the elements recited therein are met by corresponding elements of Ruvang *et al.* in the same manner as indicated above with respect to claim 1. Furthermore, the lock (34, Fig. 2) in Ruvang *et al.* includes bearing surfaces (46, 44) to contact the wear

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component (10) and the base component (28) to prevent removal of the wear component (10) from the base component (28) when the lock (34) is in the opening (30, 32), as called for in the last three lines of claim 2.

With regard to claim 3, Ruvang *et al.* show the lock (34) body (unnumbered in Fig. 8) as including a rigid part (unnumbered) and a resilient part (steel coil spring 36), and the resilient part (36) engages the locking member (70, 80) to releasably retain the locking member (70, 80) in the release and locking positions.

As to claim 5, the locking member (34) of Ruvang *et al.* includes a head (92, Figs. 1-3, 6-8 and 8A, col. 7, lines 52-56) engageable by a tool (not shown) for rotating the locking member (70, 80) between the release and locking positions.

With respect to claim 11, Ruvang *et al.* disclose a lock (34) with the same corresponding elements as applied in the rejection of claims 1 and 2, above. Further, as called for in claim 11, the locking member (70, 80) of Ruvang *et al.* is secured to the body (unnumbered) for movement limited to rotation about an axis (unnumbered), the locking member (70, 80) including a tab (80b) that is within the outline shape when the locking member is in the release position and is at least partially outside of the outline shape when the locking member (70, 80) is in the locking position (see Fig. 7) such that at least part of the tab (80b) sets opposite an inner surface (92, Fig. 3) of the wear component (10) to prevent removal of the lock (34) from the lock receiving opening (30, 32).

Regarding claim 12, the lock (34) body (unnumbered) of Ruvang *et al.* includes bearing surfaces (46, 44) to contact the wear component (10) and the base component (28) to prevent removal of the wear component (10) from the base component (28).

As to claim 13, the tab (80b) of Ruvang *et al.* sets axially outside of the bearing surfaces (44, 46), as broadly claimed.

With respect to claim 14, Ruvang *et al.* discloses the lock (34) body (unnumbered in Fig. 8) as including a rigid part (unnumbered) and a resilient part (steel coil spring 36), and the resilient part (36) engages the locking member (70, 80) to releasably retain the locking member (70, 80) in the release and locking positions.

With regard to claim 16, Ruvang *et al.* show that the rigid part (unnumbered) of the body of lock (34) defines a cavity (58, Fig. 8) into which the resilient part (36) is received.

With regard to claim 17, Ruvang *et al.* (Figs. 2, 4 and 8) show that the “rigid part” (unnumbered) of the lock (34) includes a rear surface (46) that “has a longer axial extension than the front surface” (44).

As to claim 18, the locking member (34) of Ruvang *et al.* includes a head (92, Figs. 1-3, 6-8 and 8A) engageable by a tool (not shown) for rotating the locking member (70, 80, col. 7, lines 52-56) between the release and locking positions.

As to claim 30, the recited elements are met by Ruvang *et al.* in the same manner as applied to independent claims 1 and 2, above. Further, with respect to this claim, Ruvang *et al.* (Fig. 2) show the lock (34) body (unnumbered) as including a bearing surface (46) to contact the wear component (10) to prevent removal of the wear component (10) from the base component (28) and further shows (Figs. 1, 2 and 7) that the tab (80b) is “axially to one side of the bearing surface” (46) “at all times,” as broadly recited in the claim.

With respect to claim 31, Ruvang *et al.* disclose the lock (34) body (unnumbered in Fig. 8) as including a rigid part (unnumbered) and a resilient part (steel coil spring 36), and the

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resilient part (36) engages the locking member (70, 80) to releasably retain the locking member (70, 80) in the release and locking positions.

With regard to claim 35, Ruvang *et al.* (Fig. 2) show the lock (34) body (unnumbered) to further include another bearing surface (44) that contacts the base component (28).

Allowable Subject Matter

Claims 10, 22-29 and 36-42 are allowed.

Dependent claims 4, 6-9, 15, 19-21 and 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad
Primary Examiner
Art Unit 3671

May 16, 2005